

Feedback from practitioners about Multistate Voluntary Disclosure Process – as of 2-9-15

Responses from Big 4 SALT representatives:

Overall they don't use the MTC VDA program except on rare occasions. Primarily, this is due to:

- 1) Unique situations that are on a state-by-state basis (facts differ by state)
- 2) Many of the VDA's the Firms handle for clients are for only a limited number of states (1 or 2 states) rather than a blanket mass VDA project
- 3) Because states have standardized VDA's it is easier for them to coordinate with the state specifically and cut out the intermediary
- 4) Sarbanes-Oxley has played a big issue in VDA's in that they need to have quick turn-around and can get this directly with a state rather than dealing with one central point
- 5) It also reduces the client's costs to go to each state as they are billing on hourly rates and can get VDA's done in a much quicker and cost effective manner than dealing with the MTC.

Responses from individual practitioners

Contact #1

- How frequently have you used the MTC Multistate Voluntary Disclosure program in the past few years?
 - One time
- How many states, typically, do your clients need to file in?
 - generally anywhere from 35 to every jurisdiction in the US
- As you think about whether to advise a client to consider using the program, what benefits do you see from using the program?
 - Benefit the one time I used it the process was pretty efficient. It was anonymous, (implied anonymity is important) helps to limit the exposure particularly to penalties. In many situations the companies are operating in good faith, the impact of continuing law changes, evolution of states positions, puts them at risk and they don't even know they are at risk. Advise client this is the most efficient way of going about achieving equitable resolution in good faith. I would certainly use the program again.
- Are there any difficulties that you have seen, or that your clients have seen, as they have used the voluntary disclosure process? What are those difficulties?
 - It isn't a difficulty, but when answering the questions (referring to the questionnaire) it is probably difficult to go in and offer to contest the outcome. You answer the questions to the best of your ability and are forthright what (business) you are doing. If a court decision is pending you have to wait; after the court decision if the states position is upheld then my client is now probably subject to tax (tax or created nexus due to a court case). The bright line is established say for the last 3 years but the state wanted to go back 5 years. Different states having different look back periods for filing requirements. A court case and rulings create a bright line, I would want to argue the issue on my clients behalf but there isn't a clear line of communication to discuss the grey issue with the state. (if you need help understanding what Mr. Hocking was identifying please ask me, I tried to capture in notes what he said. Christi)
- Are there any aspects of the process that work particularly well?
 - Nothing to get rid of, it was sufficiently though in the questions, the facts that would or would not support nexus. I don't think you can make the questionnaire specific to industry, from my stand point I can see how the questions would apply to the client.

When reviewing the questionnaire some of it doesn't apply because of the nature of the industry. FIN 140 or 148 tax exposures in audited financial stmts the multi-state issues is a big consideration in that, it becomes difficult in certain industries touch 30-40 states; difficult to address the varying state issues.

- If you are familiar with voluntary disclosure programs in other states, are there aspects of those programs that would be useful to the multistate voluntary disclosure program?
 - I have not had to use individual state VDAs.
- Is there anything else you would like to add that might help our team improve the multistate voluntary disclosure process?
 - Communicate to the non top 15 accounting firms; I am not sure there is an awareness that the program exists. More communication to the practitioners. If not associated with a big firm with a SALT practice, they don't know this is available. The practitioner, will say let's duck the issue until they contact us. Also a lot of practitioners don't look at it from the standpoint of a flow through entity credits etc other jurisdictions (he was referring to credits when tax is paid in multiple states on the same income)
 - A client may venture into a state (infrequent adventure) or one time, unless they have property or employees, that is the biggest tip off that they may be subject to that states tax, otherwise I may not know what activities they have in a state. Intermittent sale without the other two aspects makes it hard to identify. For instance Iowa Kentucky Fried Ckn franchise standpoint – not doing anything except a franchise – you have sufficient nexus that you are subject to tax. Gave examples of potential nexus the different rules for states, what creates sufficient nexus.

Thank you for your time. Would you be willing to serve as a resource for the project team as we develop our recommendations for changes to the multistate voluntary disclosure process?

Yes

Contact #2

- How frequently have you used the MTC Multistate Voluntary Disclosure program in the past few years?
 - I don't remember
- How many states, typically, do your clients need to file in?
 - This is pretty unique practice, not 25 states maybe 2 to 4
- As you think about whether to advise a client to consider using the program, what benefits do you see from using the program?
 - The key if there are a couple of states that need to file at the same time or layered tax credits.
- Are there any difficulties that you have seen, or that your clients have seen, as they have used the voluntary disclosure process? What are those difficulties?
 - Some states took an inordinate time for follow up timing. Nothing terrible but seemed to have dropped in the cracks.
- Are there any aspects of the process that work particularly well?
 - The key is to make sure the understandings stay the same. The states respect the time they applied to program (I believe she was stating keeping to timelines)

- If you are familiar with voluntary disclosure programs in other states, are there aspects of those programs that would be useful to the multistate voluntary disclosure program?
 - Yes, NY has it down pat, theirs is so easy, NY has a good model. NJ is about the opposite, they make it very hard. If encouraging tax compliance, keep your eye on the ball the long range home run (tax compliance). Make it simple, don't play games with the penalties & interest, make it as easy as possible (referring to the states). Some of the states create hurdles not the MTC. MTC needs to keep pushing with member states make it easy.
- Is there anything else you would like to add that might help our team improve the multistate voluntary disclosure process?
 - Nothing else I can think of.

Thank you for your time. Would you be willing to serve as a resource for the project team as we develop our recommendations for changes to the multistate voluntary disclosure process?
Yes be happy to.

Contact #3

1. How frequently have you used the MTC Multistate Voluntary Disclosure program in the past few years? **Once**
2. How many states, typically, do your clients need to file in? **Only needed to file in one state, but it was a complicated issue so he wanted the expertise of the Multistate Tax Commission.**
3. As you think about whether to advise a client to consider using the MTC Voluntary Disclosure Program, what benefits do you see from using the program? **Added layer of expertise.**
4. Are there any difficulties that you have seen, or that your clients have seen, as they have used the voluntary disclosure process? What are those difficulties?
**In his situation the website said that the application could be done online and that is what he tried but it didn't work when he was doing it, so he had to submit the application by PDF. However, he did receive a call back the next day from a technical person saying it was working but he had already submitted it.
The state was slow in processing the returns and checks that his client submitted. The MTC was timely, but it took the state several months to cash the checks.**
5. Are there any aspects of the process that work particularly well?
The people – Tom Shimkin was very, very helpful and knowledgeable with a complex situation that his client had and Diane Simon-Queen was quite helpful. Thought the timeliness of the MTC was reasonable.
6. If you are familiar with voluntary disclosure programs in other states, are there aspects of those programs that would be useful to the multistate voluntary disclosure program?
Has not done in other states, which is one reason why he wanted to go directly to the MTC and get their help/expertise.
7. Is there anything else you would like to add that might help our team improve the multistate voluntary disclosure process?
Was very pleased with the process and would absolutely use again.

Additional Information from State of Georgia:

We recently added two general Voluntary Disclosure Agreement questions to the Frequently Asked Questions areas for both the Individual Taxes and the Business Taxes sections of our website (www.dor.ga.gov). Hopefully, this will increase awareness of the program for taxpayers and their representatives who may not be aware of it. I wanted to forward our questions to you, in case you thought it might be helpful to share with the VDA Project Team. The questions are:

I haven't filed my tax returns for several years and am interested in Georgia's Voluntary Disclosure Agreement Program. What do I do?

If you have not been contacted by the Department yet, you may qualify for our Voluntary Disclosure Agreement program, which provides incentives including waiver of penalties and may limit filing requirements for previous periods. For additional information, see <https://dor.georgia.gov/voluntary-disclosure-agreements>

I want to settle my tax debt through the Voluntary Disclosure Agreement program but have limited funds; do I have to pay the total amount now?

While full payment is generally required within 90 days to participate in the Voluntary Disclosure Agreement (VDA) program, other payment options are available. If you are unable to make payment in full, include the amount you are able to pay per month when submitting your VDA application and we will advise you if we can accept those terms.

"That second FAQ, especially, is one that I've been asked on a recurring basis by tax reps with regard to the MTC program."

Contact #4

- How frequently have you used the MTC Multistate Voluntary Disclosure program in the past few years? **Once; 4-5 states, 2-3 months ago**
- How many states, typically, do your clients need to file in?
- As you think about whether to advise a client to consider using the MTC Voluntary Disclosure Program, what benefits do you see from using the program? **Liked multistate filing.**
- Are there any difficulties that you have seen, or that your clients have seen, as they have used the voluntary disclosure process? What are those difficulties? **Generally, no. only with individual states. Lag time.**
- Are there any aspects of the process that work particularly well? **No.**
- If you are familiar with voluntary disclosure programs in other states, are there aspects of those programs that would be useful to the multistate voluntary disclosure program? **Texas; which was very similar.**
- Is there anything else you would like to add that might help our team improve the multistate voluntary disclosure process? **No.**
- **Would be willing to serve as resource to the project team.**

Contact #5

- How frequently have you used the MTC Multistate Voluntary Disclosure program in the past few years? **A few time since 2008-09**
- How many states, typically, do your clients need to file in? **25-40 on average.**
- As you think about whether to advise a client to consider using the MTC Voluntary Disclosure Program, what benefits do you see from using the program? **Process cleaner than going state by state; standardized process.**
- Are there any difficulties that you have seen, or that your clients have seen, as they have used the voluntary disclosure process? What are those difficulties? **Not really. Lag of communication at times. Month without a status update.**
- Are there any aspects of the process that work particularly well? **Overall very helpful.**
- If you are familiar with voluntary disclosure programs in other states, are there aspects of those programs that would be useful to the multistate voluntary disclosure program? **No.**
- Is there anything else you would like to add that might help our team improve the multistate voluntary disclosure process? **No.**

Contact #6

- How frequently have you used the MTC Multistate Voluntary Disclosure program in the past few years? **Once; the contact's firm has used before.**
- How many states, typically, do your clients need to file in? **26 or more.**
- As you think about whether to advise a client to consider using the MTC Voluntary Disclosure Program, what benefits do you see from using the program? **To get them compliant.**
- Are there any difficulties that you have seen, or that your clients have seen, as they have used the voluntary disclosure process? What are those difficulties? **No mechanism to tell whether it's been approved and you can file in a particular state. MTC had to contact the states.**
- Are there any aspects of the process that work particularly well? **MTC person was helpful.**
- If you are familiar with voluntary disclosure programs in other states, are there aspects of those programs that would be useful to the multistate voluntary disclosure program? **No.**
- Is there anything else you would like to add that might help our team improve the multistate voluntary disclosure process? **More people should take advantage of the program. Will use more in the future.**
- **Would be willing to serve as a resource for the project team.**